

enter into binding commitments with owners cumulatively exceeding the total amount of program income on hand plus uncommitted rental rehabilitation grant amounts.

(e) *Accounting for and reporting program income.* Program income shall be accounted for and reported in the grantee's Annual Performance Report under § 511.81(b) and in the Cash and Management Information System under § 511.75, in the manner prescribed by HUD.

(f) *Authority of State grantees.* States administering rental rehabilitation grants have discretion to choose whether program income is to be earned at all or is to be paid to or retained by the State or paid to or retained by the State recipient. The State's determination should be contained in a written agreement between the State and its State recipients. However, once earned, program income must be used and accounted for in accordance with this section by the State or by the State recipient, as applicable.

(g) *Authority of urban counties.* Because the configuration of an urban county may change from time to time, particularly at the time of requalification of an urban county in the Community Development Block Grant program, special provisions must be made for urban county program income. The urban county may determine whether program income generated by a project located in a unit of general local government which, for whatever reason, no longer participates in the urban county shall be retained by the urban county for its RRP or by the unit of general local government. However, urban county program income must otherwise be used and accounted for by the urban county and the unit of general local government in accordance with this section.

(h) *Program closeout and disposition of program income.* Program income must be accounted for by the grantee when a Rental Rehabilitation Program is completely closed out for all years. Program "closeout" will occur when the following conditions have been met: All grant funds from all program years (excluding program income) have been expended; the grantee and, if applicable, its State recipients do not expect

(or have elected not) to receive any additional rental rehabilitation grant amounts, and the annual performance report covering the last program year has been submitted to HUD. Program income shall be treated in the following manner before and after program closeout:

(1) Before program closeout, program income shall be used for activities eligible under § 511.76(c); and

(2) Program income on hand at the time of program closeout or earned after program closeout may be contributed to HOME or HOPE program grantees as a cash matching contribution in accordance with applicable HOME or HOPE program rules, or may be used for activities that would be eligible under other affordable housing activities, as determined by the recipient.

[55 FR 20050, May 14, 1990, as amended at 58 FR 52567, Oct. 8, 1993; 61 FR 7062, Feb. 23, 1996]

#### § 511.77 Grant closeout.

(a) Each individual fiscal year rental rehabilitation grant will be closed out when all grant amounts for the grant to be closed out have been drawn down and expended for completed projects and/or administrative costs, or grant amounts not drawn down and expended have been deobligated by HUD.

(b) Project Completion Reports for all projects utilizing grant amounts from the fiscal year grant(s) to be closed out have been submitted and entered into the C/MI System.

(c) The required reviews and audits to determine whether grantees have satisfied the terms of their grant agreement have been made. Closeout is contingent upon the receipt of the grantee's most recent audit report and audit reports of State recipients, where applicable. For closeout of the grant to proceed, the most recent audit report(s) must be free of any outstanding findings related to the RRP grant to be closed. The audit(s) of the grantee and State recipients, where applicable, should cover all grant amounts from all fiscal years which are to be closed out except as noted in paragraph (c)(2) of this section.

(1) The Single Audit Act prohibits requiring a grantee or State recipient to obtain an audit at its expense covering

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only the Rental Rehabilitation Program. (HUD still has the authority to conduct an audit or to contract with an independent public accountant to conduct an audit of the grant. However, HUD must pay for the audit.)

(2) When the previous audit(s) fail to cover all grant amounts under the Grant Agreement, the program may still be closed out, provided the grantee agrees in writing to remit to HUD any costs questioned by a subsequent audit that are disallowed by HUD. This procedure is expected to be used in those cases when both the grantee and HUD want to proceed with the closeout before the next periodic single audit is conducted covering the remaining grant amounts not already audited.

(d) With respect to monitoring the grantee, either:

(1) The HUD Field Office has conducted an on-site monitoring of the grantee and has determined that the grantee's performance, with respect to any grant to be closed out, is satisfactory and is in compliance with Rental Rehabilitation program statutory and regulatory requirements, including §511.10(a) and §511.10(b); or

(2) A grant may be closed before on-site monitoring has been conducted, provided:

(i) The Cash and Management Information reports indicate the grantee's performance is satisfactory and is in compliance with Rental Rehabilitation program statutory and regulatory requirements;

(ii) There are no outstanding monitoring findings; and

(iii) The grantee agrees in writing to pay back the amount of any costs that are later found by HUD to be ineligible based on a subsequent on-site monitoring review or audit.

(Approved by the Office of Management and Budget under control number 2506–0080)

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## Subpart I—Grantee Performance: Review, Reporting and Corrective or Remedial Actions

### §511.80 Performance review.

(a) *General.* HUD will review the performance of grantees in carrying out their responsibilities under this part whenever determined necessary by HUD, but at least annually. In conducting performance reviews, HUD will rely primarily on information obtained from the grantee's and, as appropriate, the State recipient's records and reports, findings from on-site monitoring, audit reports, and information generated from the C/MI System. Where applicable, HUD may also consider relevant information pertaining to a grantee's or State recipient's performance gained from other sources, including citizen comments, complaint determinations and litigation. Reviews to determine compliance with specific requirements of this part will be conducted as necessary, with or without prior notice to the grantee or State recipient. Comprehensive performance reviews under the standards in §511.80(b) will be conducted after prior notice to the grantee.

(b) *Standards for comprehensive performance review.* Grantee performance shall be comprehensively reviewed periodically, as prescribed by HUD, to determine:

(1) For grantees that are units of general local government or States administering their own rental rehabilitation grant programs, whether the grantee:

(i) Has carried out its activities in a timely manner, including the commitment of rental rehabilitation grant amounts to specific local projects in accordance with the schedule contained in its Program Description, as provided in §511.20(b)(8), and the completion of projects in accordance with §511.11(a);

(ii) Has carried out its activities in accordance with the requirements of this part; and

(iii) Has a continuing capacity to carry out its activities in accordance with this part and in a timely and cost-effective manner; or

(2) For grantees that are States distributing rental rehabilitation grant